

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

JERRY LEE EMERSON,

Petitioner

v.

1:04-cv-00158 (WLS)

GEORGIA MEDICAL COLLEGE, et. al.,

Respondent

ORDER

Before the Court is a Recommendation from United States Magistrate Judge Richard L. Hodge (Doc. 23) filed on February 3, 2006. It is recommended that Respondent's Motion for Summary Judgment (Doc. 18) be granted. Petitioner filed his timely objection to this recommendation on February 21, 2006 (Doc. 24).

In his recommendation, the Magistrate Judge found there to be "no disagreement [sic] as to the facts underlying this lawsuit; both [Petitioner and Respondent] agree that [Petitioner's] knee was injured and that some delay took place between [Respondent's] initial examination of [Petitioner] and treatment and later x-rays and surgery." (Doc. 23). Relying upon Hill v. DeKalb RYDC, 40 F.3d 1176, 1189 (11th Cir. 1994), Judge Hodge found that Petitioner has failed to submit any verifying medical evidence that the delay in question was attributable to Respondent and that said delay exacerbated his condition, as would be necessary to support the constitutional claim of cruel and unusual punishment and tort claims of deliberate indifference and medical malpractice. *Id.* Petitioner's objections are reiterations of arguments made in his Response and fully addressed by the Magistrate Judge in his recommendation. (Doc. 24, *see also* Docs. 22, 23).

Upon full review and consideration upon the record, the Court finds that said Recommendation (Doc. 24) should be, and hereby is, **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein. Accordingly, Defendant's Motion for Summary Judgment (Doc. 18) is **GRANTED**.

SO ORDERED, this 6th day of March, 2006.

/s/W. Louis Sands
W. LOUIS SANDS, CHIEF JUDGE
UNITED STATES DISTRICT COURT